

SB148

Measure Title: RELATING TO PROCUREMENT.

Report Title: Procurement; Child Care Program; Group Living Facilities

Description: Requires applicants who submit contract proposals to operate a child care program to have necessary business licenses. Exempts applicants who submit proposals to operate a child care program or group living facility from having to obtain licenses to operate under section 346-161 and chapter 321, Hawaii Revised Statutes, prior to their proposal being accepted.

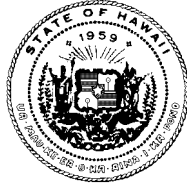
Companion: [HB556](#)

Package: None

Current Referral: CPH/GVO/HMS

Introducer(s): BAKER

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

BRIDGET HOLTHUS
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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
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February 10, 2017

TO: The Honorable Senator Rosalyn H. Baker, Chair
Senate Committee on Commerce, Consumer Protection, and Health

The Honorable Senator Donna Mercado Kim, Chair
Senate Committee on Government Operations

The Honorable Senator Josh Green, Chair
Senate Committee on Human Services

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 148 – RELATING TO PROCUREMENT**
SB 149 – RELATING TO PROCUREMENT

Hearing: Friday, February 10, 2017, 9:30 a.m.
Conference Room 229, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports both bills.

PURPOSE: **SB 148** - The purpose of the bill is to require applicants who submit contract proposals to operate a child care program to have necessary business licenses; exempts applicants who submit proposals to operate a child care program or group living facility from having to obtain licenses to operate under section 346-161, Hawaii Revised Statutes (HRS) and Chapter 321, HRS, prior to their proposal being accepted.

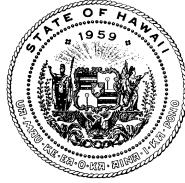
SB 149 - Repeals the requirement that all applicants for procurement contracts for health and human services possess all licenses necessary to conduct the subject business. Repeals the requirement that all contracts include only costs, fees, and taxes reflected on the face of the proposal.

The primary focus of the DHS child care licensing program is the health and safety of all children in care. DHS is supportive of either the continued exemption proposed in SB 148, or the repeal of requirements as proposed in SB 149, as either would result in applicants who submit contract proposals to operate a child care program to not be required to obtain the license prior to their proposals being accepted.

Pursuant to the service specifications issued by DHS in the Request For Proposals, and as required by Hawaii Administrative Rules (HAR) Chapter 3-143, Competitive Purchase of Services, once an applicant's proposal is accepted by DHS, the applicant must obtain a license to operate a group child care center or group child care home before contract services may start.

DHS defers to Department of Health regarding the proposed changes in SB 148 to Chapter 321, HRS.

Thank you for the opportunity to provide testimony on this bill.



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Testimony in SUPPORT of SB148
RELATING TO PROCUREMENT

SENATOR DONNA MERCADO KIM, CHAIR
COMMITTEE ON GOVERNMENT OPERATIONS

SENATOR JOSH GREEN, CHAIR
COMMITTEE ON HUMAN SERVICES

SENATOR ROSALYN H. BAKER, CHAIR
COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Hearing Date: Friday, February 10, 2017

Room Number: 229

- 1 **Fiscal Implications:** Undetermined at this time.
- 2 **Department Testimony:** The Department of Health (DOH) testifies in support of the intent of
- 3 this bill and offers comments and amendments.
- 4 The purpose of this bill is to exempt applicants who submit proposals in response to a
- 5 Request for Proposals to operate a child care program or group living facility, from having to
- 6 obtain licenses to operate under section 346-161 and chapter 321, HRS, prior to their proposal
- 7 being accepted.
- 8 As part of rebuilding community mental health programs for adults, the Adult Mental
- 9 Health Division (AMHD) seeks to increase the capacity of community based programs. This may
- 10 entail new providers entering our system, in addition to expanding capacity through existing
- 11 providers. This may especially be the case for program sub types which are new to Hawaii and
- 12 this effort is significantly hampered and delayed by present law.

1 Specifically and for example, the DOH has identified that there is a shortage of special
2 treatment facilities (STF) in the community that are appropriate for consumers receiving
3 services from AMHD, and who no longer require hospitalization. This shortage continues to be
4 a critical problem affecting the length of stay for consumers waiting to be discharged from the
5 Hawaii State Hospital (HSH).

6 The DOH Office of Health Care Assurance (OHCA) is responsible for licensing each STF
7 provider. According to OHCA, there are currently 21 STFs on the island of Oahu, with 13
8 available to adults with substance abuse (drug or alcohol). Of the 13 STFs, six also address
9 mental illness, and the AMHD contracts with all six of these providers. Of the six STFs that
10 address mental illness, their STF bed capacity is shared with the DOH, Alcohol & Drug Abuse
11 Division and Developmental Disabilities Division, the United States Office of Veteran’s Affairs,
12 and the general public.

13 The requirement that the facility obtain licensure prior to being awarded a state
14 contract has proven to be unfavorable to rebuilding our community based service system and
15 serves as a significant barrier to new providers entering the service system. Very few if any
16 providers will obtain a facility, hire staff, train staff, create policy and procedures, obtain
17 licensure, etc. without the promise of a contract first.

18 The bill, as written, will provide for the possibility a potential provider to apply for a
19 contract prior to obtaining licensure from the OHCA. Upon contract award, the AMHD will not
20 actively utilize the program capacity until the provider has obtained licensure from the OHCA.

21 We recommend one amendment to the bill, and that is to delete the phrase “including,
22 but not limited to, licenses required by chapters 237 and 414,” because although it appears to
23 provide the citations for tax licenses and business licenses, chapter 414 only applies to for profit
24 businesses. This phrase may cause more confusion than clarification, and is not necessary.

1 We appreciate the intent of this bill and support it but also ask that the committees
2 consider SB149 as the means to address our concerns about group living facilities licensing
3 requirements by repealing section 103F-401.5, HRS, instead of passing this bill to amend it.
4 Repealing section 103F-401.5, HRS, would be our preference.

5 Thank you for the opportunity to testify.

6 **Offered Amendments:** Specifically for this bill, we offer the below amendments, should the
7 committee wish to advance this bill forward.

8 §103F-401.5 Proposals and awards. (a) No contract proposals shall be accepted from any
9 applicant who lacks any license necessary to conduct the business being sought by the request
10 for proposals~~[,with the exception of proposals from applicants to operate a child care program~~
11 ~~required to be licensed pursuant to section 346-161].~~

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
MARA SMITH
ASSISTANT ADMINISTRATOR

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STATE PROCUREMENT OFFICE**

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE
TO THE SENATE COMMITTEES
ON
GOVERNMENT OPERATIONS,
HUMAN SERVICES,
AND
COMMERCE, CONSUMER PROTECTION, AND HEALTH

February 10, 2017, 9:30 A.M.

SENATE BILL 148
RELATING TO PROCUREMENT

Chairs Kim, Green and Baker, Vice-Chairs Ruderman, Chang and Nishihara, and members of the committees, thank you for the opportunity to submit testimony on Senate Bill 148. The State Procurement Office (SPO) supports the intent to correct HRS §103F-401.5, but recommends that the section be repealed.

HRS §103F-401.5 was passed as Act 69, a Veto Override, during the 2009 Legislature. The section cannot be applied across the board. In many instances, providers cannot be licensed prior to award of a contract. The provider is selected then obtains clearances prior to being licensed (e.g., fire and safety) and prior to commencing services. HRS §103F-401.5 greatly restricts competition among qualified health and human service providers.

HRS 103F administrative rules has provisions without this section, which meets service requirement(s), as applicable. HAR section 3-143-201(12), preparing a request for proposals (RFP), states the RFP shall include "Any specific requirements or qualifications that an applicant must meet in order to submit a proposal including, but not limited to, licensure or accreditation." An applicant submitting a proposal without the required license(s) or qualifications, as determined by the purchasing agency and stated in the RFP, would not be considered for contract award.

Additionally, subsection (b) is unclear and unnecessary. Funding levels are determined by client needs, often on a fee for service basis. It is frequently unknown in advance the precise amount of services needed making it difficult to determine exact funding for a particular service. When that occurs, amounts quoted in proposals may be based on specific units of service identified in the request for proposals with the caveat that the exact number of units to be used may vary from estimates provided in the solicitation. Requiring that the award or contract be for the amount of proposal complicates and delays the State's ability to render required services.

Thank you.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 2:56 PM
To: CPH Testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB148 on Feb 10, 2017 09:30AM*

SB148

Submitted on: 2/7/2017

Testimony for CPH/GVO/HMS on Feb 10, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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